

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN THE MATTER OF APPLICATION SERIAL NO. 77/464,933  
PUBLISHED IN THE OFFICIAL GAZETTE ON MARCH 31, 2009

LUSTER PRODUCTS, INC.,	)	Opposition No.:
	)	
Opposer,	)	
v.	)	
	)	
JAFER LIMITED,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

In the matter of the trademark application of JAFER LIMITED, for the registration of the mark **PINKY GLITTER** for hair care and personal care products specifically identified as "cosmetics; non-medicated skin care preparations; perfumes; eau de perfumes; fragrances for personal use; toilet water; cologne; cosmetic creams, beauty gels, and cosmetic lotions; body lotions; body creams; body gels, namely, body moisturizers; toilet soap; bath salts; deodorant for personal use; antiperspirants; talcum powder; hair shampoo; hair conditioners; hair balms, namely, hair pomade; hair gels; hair rinses; hair styling preparations; shampoo-conditioners; hair care preparations; sun block preparations; sun screen preparations; sun-tanning preparations" in International Class 3, **Application Serial No. 77/464,933** filed on May 2, 2008, published in the Official Gazette of March 31, 2009;

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**10-02-2009**

Opposer LUSTER PRODUCTS, INC., an Illinois corporation with a principal place of business at 1104 West 43rd Street, Chicago, Illinois 60609, believes it will be damaged by the registration of the mark shown in the application and hereby opposes the referenced application.

The grounds for the opposition are:

1. Continuously since long prior to May 2, 2008, the Applicant's filing date for its application, the Opposer has marketed, advertised and sold and continues to sell throughout the United States under the names and marks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** for an extensive range of hair care and personal care products.

2. Opposer's products sold under the above names and trademarks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** have been extensively promoted throughout the United States to the relevant trade and to the consuming public.

3. By reason of Opposer's aforesaid extensive promotion and sale of its products, Opposer's names and trademarks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** have acquired great recognition and renown, and the relevant trade and public have come to recognize the names and trademarks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** as signifying Opposer exclusively.

4. Opposer has duly registered in the United States Patent and Trademark Office and owns the following registrations:

<u>REGISTRATION NUMBER</u>	<u>TRADEMARK</u>
1,503,517	<b>PINK PROTECTION</b>
1,511,336	<b>PINK</b>
1,649,218	<b>PINK</b>
1,864,492	<b>PINK</b>
2,764,677	<b>PINK SMOOTH TOUCH</b>
2,938,183	<b>PINK PLUS</b>

5. Each of the registrations referenced in paragraph No. 4 for the above marks are valid subsisting registrations in full force and effect. Furthermore, Registration Nos. 1503517; 1649218; and 1864492 have each achieved "**incontestable**" registration status thereby constituting conclusive prima facie evidence of Opposer's exclusive right to use said marks in commerce.

6. Applicant's claimed trademark **PINKY GLITTER**, as proposed for use in connection with items including hair care and personal care products as set forth in the application, is so similar to Opposer's names and trademarks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** used for a wide range of hair care and personal care products, as to be likely to create confusion, mistake or deception, all to the damage of Opposer,

and to the damage of Opposer's rights in its names and trademarks, which names and marks have been in use long prior to the filing of the Applicant's trademark application.

7. The hair care products sold by Opposer would be identically described to hair care products identified in the Applicant's application. Furthermore, products identified in Opposer's identified registration(s) would include within the description items identified in the Applicant's application and products identified in the Applicant's application are also related personal care products to those sold by the Opposer.

8. Based upon information and belief the goods identified in the Applicant's application for the trademark **PINKY GLITTER** and those products sold under the Opposer's names and marks could be sold to the same potential consumers or end-users as the Opposer's products.

9. Based upon information and belief the goods identified in the Applicant's application for the trademark **PINKY GLITTER** and those products sold under the Opposer's names and marks could move through the same channels of distribution and be sold in the same stores or in stores selling competing items or selling Opposer's related personal care products.

10. Opposer holds rights in a family of trademarks which include the name and mark **PINK** as a name and mark, or as part of an overall name and mark with said marks often promoted together.

The Applicant's mark **PINKY GLITTER** is thereby confusingly similar to the Opposer's rights in its family of marks.

11. The Applicant filed the underlying application, on information and belief, with actual knowledge of the Opposer's name and mark **PINK**.

12. Use by the Applicant of the trademark **PINKY GLITTER**, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

13. Applicant's registration of the trademark **PINKY GLITTER** will result in damage and in the diminishment in sales and the loss of the value of the Opposer's names and marks.

14. Applicant, based upon information and belief, has not used the mark **PINKY GLITTER**. Applicant's earliest available possible priority date for the mark **PINKY GLITTER** is the filing date for its application, specifically May 2, 2008.

15. Applicant's registration of the trademark **PINKY GLITTER** will result in damage, dilution, and in the diminishment in sales and the loss of the value of the Opposer's famous names and marks.

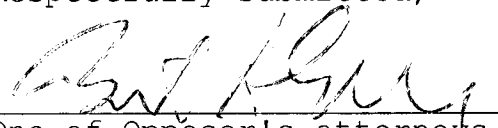
WHEREFORE, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 77/464,933 and prays that this Opposition be sustained and that the Applicant's registration be denied.

This Notice of Opposition is being filed in duplicate and please charge the required fee of \$300.00 to our deposit Account No. 120400. Also, please charge any additional costs to our Deposit Account No. 120400.

Please address all correspondence to Burton S. Ehrlich, Ladas & Parry, 224 South Michigan Avenue, Suite 1600, Chicago, IL 60604, telephone (312) 427-1300.

Respectfully submitted,

By:

  
One of Opposer's attorneys

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Chicago, IL 60604  
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**CERTIFICATE OF MAILING**


I hereby certify that this correspondence is being deposited (in duplicate) with the United States Postal Service as First Class Mail addressed to ATTN: TTAB-FEE, Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on September 28, 2009.

  
Burton S. Ehrlich

CERTIFICATE OF SERVICE

The undersigned, one of Opposer's attorneys, hereby certifies that on September 28, 2009, he caused a true and correct copies of the foregoing NOTICE OF OPPOSITION to be served upon Applicant by First Class mail, postage pre-paid, at the following address:

Marnie Wright Barnhorst, Esq.  
THE TRADEMARK GROUP, APLC  
1200 PROSPECT ST STE G100  
LA JOLLA CA 92037-3608

  
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Burton S. Ehrlich